

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

BESARO MOBILE HOME PARK, LLC, dba      No. C 05-2886 SBA  
BESARO MOBILE HOME PARK,

**ORDER**

Plaintiff,

v.

THE CITY OF FREMONT,

Defendant.

On July 24, 2001, Plaintiff Besaro Mobile Home Park, LLC, dba Besaro Mobile Home Park filed a complaint against Defendant The City of Fremont, Case No. C 01-02836 PJH. The Complaint challenged the vacancy control aspects of the City of Fremont's mobilehome rent control ordinance. On February 21, 2002, Plaintiff filed a Notice of Settlement and Request for Dismissal without Prejudice. The same day, Judge Hamilton signed an order dismissing the case.

Plaintiff dismissed the case without prejudice while the parties were trying to settle the dispute. To facilitate that end, the parties entered into an agreement tolling the statute of limitations for the period of July 24, 2001 through July 15, 2005. When the parties' settlement efforts failed, on July 15, 2005, Plaintiff refiled the Complaint against Defendant, C 05-02886 SBA. The parties did not file a notice of related action. On December 16, 2005, Plaintiff filed a First Amended Complaint for Civil Rights Violation and Damages under 42 U.S.C. Section 1983; Taking of Property and

1 Violation of Due Process; Declaratory Relief/Demand for Jury Trial. As did the July 24, 2001  
2 Complaint, the First Amended Complaint challenges the vacancy control aspects of the City of  
3 Fremont's mobilehome rent control ordinance. On January 5, 2006, Defendant filed a Motion to  
4 Dismiss First Amended Complaint Pursuant to Rules 12(b)(1) and 12(b)(6). The parties are  
5 currently set for hearing on Defendant's Motion to Dismiss and the Case Management Conference  
6 on April 4, 2006. However, having reviewed the case file, it appears to the Court that the above-  
7 captioned case may be related to *Besaro Mobile Home Park, LLC, dba Besaro Mobile Home Park v.*  
8 *The City of Fremont*, C 01-02836 PJH. In the interest of judicial economy, this Court will refer the  
9 above-captioned matter to Judge Hamilton. If Judge Hamilton deems the case related, it will be  
10 reassigned to Judge Hamilton for further proceeding.

11 Accordingly,

12 IT IS HEREBY ORDERED THAT the above-titled case is REFERRED, pursuant to Civil  
13 Local Rule 3-12(c), to District Judge Phyllis J. Hamilton for consideration of whether the above-  
14 captioned case is related to *Besaro Mobile Home Park, LLC, dba Besaro Mobile Home Park v. The*  
15 *City of Fremont*, C 01-02836 PJH.

16 IT IS FURTHER ORDERED THAT the hearing date on Defendant's Motion to Dismiss,  
17 currently scheduled for April 4, 2006 at 1:00 p.m., is VACATED [Docket No. 14].

18 IT IS FURTHER ORDERED THAT the date for the Case Management Conference,  
19 currently scheduled for April 4, 2006 at 1:00 p.m., is VACATED.

20 If Judge Hamilton does not deem the case related, this Court will set new dates for hearing  
21 on Defendant's Motion to Dismiss and the Case Management Conference. The Court may, in its  
22 discretion, adjudicate the Motion without a hearing, in which case the Clerk will notify the parties  
23 that no appearance is necessary.

24 IT IS SO ORDERED.

25 Dated: 3/28/06

26   
27 SAUNDRA BROWN ARMSTRONG  
28 United States District Judge